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Counsel for Plaintiff,  
**SANTIAGO DIAZ**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SANTIAGO DIAZ, individually,

Case No.:

**Plaintiff,**

VS.

CITY OF LOS ANGELES; and DOES 1 through 50 inclusive,

## **PLAINTIFF'S COMPLAINT FOR:**

- 1. VIOLATION OF CIVIL RIGHTS, EXCESSIVE FORCE, DUE PROCESS DEPRIVATIONS 42 U.S.C. § 1983**
- 2. UNLAWFUL CUSTOM AND PRACTICE UNDER SECTION 1982**

## Defendants

CITY OF LOS ANGELES; and DOES 1 through 50 inclusive,

## **2. UNLAWFUL CUSTOM AND PRACTICE UNDER SECTION 1983**

Plaintiff, SANTIAGO DIAZ, complains of defendants CITY OF LOS ANGELES and Does 1 through 50, inclusive, as follows:

## INTRODUCTION

1. This civil rights action seeks general, special, and punitive damages from Defendants for violating various rights under the United States Constitution and state law in connection with the furious and provoked beating of SANTIAGO DIAZ.

## **VENUE AND JURISDICTION**

2. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1334, and arises under 42 U.S.C. §§ 1983 and 1988. State law claims for relief are within this Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367. Venue is proper in this Court because the unlawful acts and practices alleged herein occurred in the CITY OF LOS ANGELES, California, which is within this judicial district pursuant to 28 U.S.C. § 1391.

## PARTIES

3. At all times relevant in this Complaint, Plaintiff, SANTIAGO DIAZ (hereinafter “PLAINTIFF”), was and is a resident of the State of California, County of Los Angeles.

4. At all times relevant herein, Defendant CITY OF LOS ANGELES (hereinafter referred to as “CITY”) is, and at all times in this Complaint was, an incorporated public entity duly authorized and existing as such in and under the laws of the State of California; and at all times herein mentioned, Defendant CITY possessed the power and authority to adopt policies and prescribe rules, regulations and practices affecting the operation of the Los Angeles Police Department (hereinafter referred to as “LAPD”) and its tactics, methods, practices, customs and usages.

5. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated as a DOE are intentionally and negligently responsible in some manner for the events and happenings herein referred to, and thereby proximately caused injuries and damages as herein alleged. The true names and capacities of DOES 1 through 50, inclusive, and each of them, are not now

1 known to Plaintiff who, therefore, sues said Defendants by such fictitious  
2 names. Plaintiff will seek leave to amend this Complaint to show their true  
3 names and capacities when same have been ascertained.

4 Defendants, and each of them, acted under color of law and did the acts  
5 and omissions hereinafter alleged in bad faith and with knowledge that their  
6 conduct violated established and commonly understood substantive and  
7 procedural law.

#### 8 FACTS COMMON TO ALL COUNTS

9 Plaintiff, SANTIAGO DIAZ, realleges each and every allegation in  
10 paragraphs 1 through 6 of this Complaint with the same force and effect as if  
11 fully set forth herein.

12 On or about October 2, 2015, at approximately 9:00 am, Plaintiff exited  
13 his apartment complex located at 520 San Julian Street, Los Angeles, CA 90013  
14 headed to a doctor's appointment.

15 When he exited his building, plaintiff noticed that the CITY was cleaning  
16 the sidewalks so he started walking in the street.

17 While walking south on San Julian Street, plaintiff was stopped by an  
18 officer on 6<sup>th</sup> Street, DOE OFFICER #1, who informed him that another officer  
19 on 5<sup>th</sup> Street was calling him. When he stopped to speak with the officer on 5<sup>th</sup>  
20 Street, DOE OFFICER #2, the officer asked for his name, his residence and an  
21 explanation as to why he was walking in the street. Plaintiff answered the  
22 questions and explained that he was headed to the doctor.

23 The DOE OFFICER #2 told plaintiff to get on the sidewalk and, upon  
24 information and belief, started running plaintiff's name for warrants. Plaintiff  
25 informed the officer that he did not have any warrants and the officer began to  
26 pushing him and told him to put his hands behind his back.

27 When plaintiff inquired why he was being asked to put his arms behind  
28 his back, DOE OFFICERS #1 and #2 began grabbing plaintiff, pushed him to

1 the ground and tazed plaintiff. One of the officers called for assistance with  
2 their walkie talkie.

3 13. Soon thereafter, several other DOE OFFICERS arrived at the scene and  
4 began beating and tazing plaintiff.

5 14. While plaintiff laid helplessly in a pool of water, the DOE OFFICERS  
6 tazed and stomped ad kicked plaintiff, all the while making disparaging  
7 comments. After the beating, plaintiff was thrown in a police car and taken to  
8 the jail station.

9 15. DOE OFFICERS, individually and as CITY officers, while acting in the  
10 course and scope of their employment with CITY, unlawfully detained,  
11 searched and assaulted plaintiff without having probable cause to believe that  
12 plaintiff had committed a crime, or would commit a crime in the future.

13 16. As a result of the encounter, plaintiff suffered multiple injuries,  
14 including, but not limited to multiple contusions and lacerations to his face,  
15 memory loss and emotional trauma.

16 **FIRST CAUSE OF ACTION**

17 **(VIOLATION OF CIVIL RIGHTS, EXCESSIVE FORCE, DUE  
18 PROCESS DEPRIVATIONS (42 U.S.C. § 1983))**  
19 **(By Plaintiff Against All Individual Defendants)**

20 17. Plaintiff refers to and repleads each and every allegation contained in  
21 paragraphs 1 through 16of this Complaint, and by this reference incorporates  
22 the same herein and makes each a part thereof.

23 18. Both prior to and during the time in which DOE OFFICERS unlawfully  
24 detained, searched and assaulted SANTIAGO DIAZ, plaintiff had not  
25 committed any crime nor did the DOE OFFICERS suspect that plaintiff had  
26 committed a crime. Nor were the DOE OFFICERS faced with any  
27 circumstances that would have led a reasonable officer to believe that plaintiff  
28 would commit a crime or that he had committed a crime.

1       19. Both prior to and during the time in which defendant DOE OFFICERS  
2 unlawfully detained and searched SANTIAGO DIAZ, plaintiff did not consent  
3 to his detention nor the search of his person. Moreover, plaintiff acted within  
4 his legal right to utilize the public streets as he is a citizen of the United States  
5 of America and a California resident.

6       20. This action at law for money damages arises under Title 42 U.S.C § 1983  
7 and the United States Constitution, the laws of the State of California and  
8 common law principles to redress a deprivation under color of state law of  
9 rights, privileges and immunities secured to Plaintiff by said statutes, and by the  
10 First, Fourth, and Fourteenth Amendments of the Unites States Constitution.

11      21. Commencing at or about the aforementioned date and place, without  
12 cause, authority or justification, and acting under color of law, the individual  
13 Defendants and each of them, intentionally and maliciously deprived Plaintiff  
14 of rights secured to him by the First, Fourth, and Fourteenth Amendments to the  
15 United States Constitution.

16      22. Defendants, and each of them, carried out and perpetrated the mutually  
17 supportive conspiracy to deprive Plaintiff of rights against unreasonable  
18 seizures, abuse, battery, due process of law and liberty interests secured  
19 thereby, and freedom from groundless criminal accusations.

20      23. As a proximate result of the aforesaid acts and omissions of Defendants,  
21 and each of them, Plaintiff sustained degradation, physical injuries, anxiety and  
22 emotional distress.

23      24. In addition, by reason of the aforementioned acts and omissions of  
24 Defendants, and each of them, Plaintiff suffered special and general damages in  
25 an amount as proved.

26      25. By reason of the aforementioned acts of Defendants, and each of them,  
27 Plaintiff was compelled to secure the services of an attorney at law to redress  
28 the wrongs hereinbefore mentioned and by virtue thereof, Plaintiff is indebted

1 and liable for attorney's fees.

2 26. The aforementioned acts and omissions of Defendants were committed  
3 by each of them knowingly, willfully and maliciously, with the intent to harm,  
4 injure, vex, harass and oppress Plaintiff with a conscious and deliberate  
5 disregard of Plaintiffs constitutional rights and by reason thereof, Plaintiff seeks  
6 punitive and exemplary damages from Defendants, and each of them, in an  
7 amount as proved.

8 **SECOND CAUSE OF ACTION**

9 **UNLAWFUL CUSTOM AND PRACTICE (42 U.S.C. § 1983)**

10 **(By Plaintiff Against Defendant CITY)**

11 27. Plaintiff refers to and repleads each and every allegation contained in  
12 paragraphs 1-26 of this complaint, and by this reference incorporates the same  
13 herein and makes each a part hereof.

14 28. Defendant CITY, is and at all times herein mentioned, has been a public  
15 entity and an incorporated municipality duly authorized and existing as such in  
16 and under the laws of the State of California and at all times herein mentioned,  
17 Defendant CITY possessed the power and authority to adopt policies and  
18 prescribe rules, regulations and practices affecting the operation of the LAPD  
19 and its tactics, methods practices, customs and usages.

20 29. At all times herein mentioned, Defendants and each of them, were  
21 employees acting under the CITY and LAPD's direction and control, who  
22 knowingly and intentionally promulgated, maintained, applied, enforced and  
23 suffered the continuation of policies, customs, practices and usages in violation  
24 of the First, Fourth, and Fourteenth Amendments respectively to the United  
25 States Constitution, which customs, policies, practices and usages at all times  
26 herein mentioned which customs, policies, practices and usages at all times  
27 herein mentioned required and encouraged the employment, deployment and  
28 retention of persons as peace deputies who have demonstrated their brutality,

1 dishonesty, and numerous other serious abuses of their powers as peace  
2 deputies in the employment of the CITY.

3 30. The unconstitutional policies, practices or customs promulgated,  
4 sanctioned or tolerated by Defendant CITY and LAPD include, but are not  
5 limited to:

6 a. Defendant CITY and LAPD had knowledge, prior to and since this  
7 incident, of similar allegations of wrongful and unlawful battery, dishonesty  
8 and improper tactics, and corruption by LAPD employees, including the  
9 individual defendants herein, and refused, with deliberate indifference, to  
10 enforce established administrative procedures to insure public safety, protection  
11 of citizens rights and the Plaintiffs liberty interests;

12 b. Defendant CITY and LAPD refused to adequately discipline  
13 individual employees found to have committed similar acts of dishonesty and  
14 misconduct;

15 c. Defendant CITY and LAPD refused to competently and  
16 impartially investigate allegations of abuse and misconduct alleged to have  
17 been committed by CITY and LAPD employees;

18 d. Defendant CITY and LAPD reprimanded, threatened, intimidated,  
19 demoted and fired employees who reported acts of abuse by other COLA and  
20 LASD employees;

21 e. Defendant CITY and LAPD covered up acts of misconduct and  
22 abuse by CITY and LAPD employees and sanctioned a code of silence by and  
23 among LAPD officers;

24 f. Defendant CITY and LAPD failed to adequately supervise the  
25 actions of employees under its control;

26 g. Defendant CITY and LAPD condoned and participated in the  
27 practice of prosecuting groundless criminal charges for the purpose of  
28 insulating the CITY and LAPD employees from civil liability and reducing or

1 dismissing criminal charges against individuals in return for releasing them  
2 from civil liability;

3 h. Defendant CITY and LAPD tacitly condones and encourages a  
4 conspiracy of silence among its employees for the purpose of concealing and  
5 furthering wrongful and illegal conduct;

6 i. Defendant CITY and LAPD tacitly condones and encourages use  
7 of excess force on citizens;

8 j. Defendant CITY and LAPD fostered and encouraged an  
9 atmosphere of lawlessness, abuse and misconduct, which by October 5, 2014,  
10 and thereafter, represented the unconstitutional policies, practices and customs  
11 of the CITY and LAPD.

12 31. By reason of the aforesaid policies, customs, practices and usages,  
13 Plaintiffs First, Fourth and Fourteenth Amendments to the United States  
14 Constitution were violated.

15 **PRAAYER**

16 WHEREFORE, Plaintiff prays judgment against Defendants and each of  
17 them, as follows:

- 18 1. For compensatory (or general) damages in an amount to be proven at  
19 trial;
- 20 2. For punitive damages against the individual defendants in an amount to  
21 be proven at trial;
- 22 3. For prejudgment interest;
- 23 4. For an award of general and special damages in the amount to be proven  
24 at trial;
- 25 5. For reasonable costs of this suit incurred herein;
- 26 6. For reasonable attorney's fees pursuant to 42 U.S.C. § 1983 and costs as  
27 provided by law;
- 28

7. For such further other relief as the Court may deem just, proper and appropriate.

Dated:, May 31, 2017

SIAS | CARR LLP

Respectfully Submitted By:

/s/ Peter L. Carr, IV

PETER L. CARR, IV

Attorneys for Plaintiff,

SANTIAGO DIAZ

## **DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.

Dated: May 31, 2017

SIAS | CARR, LLP

Respectfully Submitted By:

/s/ Peter L. Carr IV

PETER L. CARR, IV

Atorneys for Plaintiff,